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10 UNITED STATES DISTRICT COURT
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA

12 M.H., a minor, individually through his Guardian Case No. C 11-2868 JST
13 Ad Litem, Michelle Henshaw, et al.

14 Plaintiffs,

**PETITION APPOINTING GUARDIAN AD
LITEM AND APPROVING MINOR'S
COMPROMISE AND (PROPOSED) ORDER**

15 vs.

16 COUNTY OF ALAMEDA, et al.

17 Defendants.

18 _____/
19 Petitioner MICHELLE HENSHAW respectfully represents:

20 1. Petitioner MICHELLE HENSHAW is the natural mother of minor plaintiff M.H. who
21 was born in 2003 and is presently ten years old, and is the son of Decedent MARTIN HARRISON.

22 2. Minor Plaintiff M.H. has causes of action against the named defendants herein on
23 which a lawsuit was brought in this court for violation of civil rights, wrongful death and personal
24 injury tort claims under Federal and State statutes.

25 3. Plaintiffs' causes of action arise out of an incident, which occurred on August 16,
26 2010, in which Decedent MARTIN HARRISON was killed during a restraint in a jail cell on August
27 16, 2010 after he flooded his own cell. Mr. Harrison's injuries at autopsy included extreme physical
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1 injuries, including: A 16-inch by 9-inch bruise over the right lateral portion of his neck, a 4-inch by
2 2.5-inch contusion on the right lateral side of his neck, a 12-inch by 17-inch bruise of the right arm, a
3 2.5-inch by 0.5-inch bruise on the right palm; two linear abrasions, about 1.75 inches each, crossing
4 each other to make a letter “z”, on the right upper arm; a 12-inch by 5-inch contusion on the left
5 upper arm; a 10-inch by 4-inch contusion on the left forearm; a 2.25-inch contusion on the left palm;
6 a 6-inch by 3.5-inch contusion on the right thigh; a 4-inch by 3.5-inch contusion on the back right
7 shoulder; a 5-inch by 4-inch contusion on Decedent’s back between the 12th rib and vertebral
8 column; a 6-inch by 4-inch bruise on the left side of Decedent’s back; and a 5-inch by 4-inch bruise
9 on the back of Decedent’s left shoulder; a 5-inch contusion of the right clavicle; soft-tissue
10 hemorrhaging of the upper chest; bi-lateral blood-tinged pleural effusions of about 600 to 700 cc’s
11 each (in what would ordinarily be the space around Decedent’s lungs); 800 cc’s of blood-tinged fluid
12 in the peritoneal cavity; 150 cc’s of blood-tinged fluid in the pericardial sac; a 2-inch area of
13 hemorrhage in the left pleural cavity; a 6-inch by 0.5-inch area of hemorrhage in the posterior-lateral
14 surface of the left pleural cavity; an interrupted area of hemorrhaging in the right pleural cavity
15 covering an area of about 8 inches by 2 inches; very prominent soft-tissue hemorrhaging in the in the
16 posterior and posterior-lateral aspects of the right pleural cavity, extending from rib 2 or 3 all the way
17 down to rib 12. Somehow, even though there was also a 1.5-inch hemorrhage around the right front
18 side of Decedent’s larynx; a 2.25 by .75-inch area of hemorrhage over the midline of Decedent’s
19 neck; a .75-inch area of hemorrhage over the left side of the larynx; a 3/8-inch area of hemorrhage
20 over the left side of the hyoid bone, and numerous significant areas of bruising and hemorrhaging on
21 Decedent’s cranial vault, the Alameda County Coroner’s Office (the same entity as Defendant
22 COUNTY OF ALAMEDA) found that the manner of death could not be determined, although
23 finding that Mr. Harrison died from Anoxic Encephalopathy following cardiac arrest.
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1 4. Prior to being placed in this cell, Decedent had been identified by Defendant
2 CORIZON nurse SANCHO as being in need of an alcohol withdrawal medical protocol. However,
3 Nurse SANCHO failed to institute the alcohol withdrawal medical protocol, causing Decedent to
4 suffer physical and psychiatric symptoms of alcohol withdrawal, including hallucinations, all of
5 which led to a medical/psychiatric emergency, causing him to flood his cell and proximately causing
6 the Defendant Deputies' use of alleged excessive force as described herein.
7

8 5. No previous petition for appointment of guardian ad litem with respect to minor M.H.
9 has been filed in this matter.
10

11 6. Petitioner is willing to serve as the minor's Guardian Ad Litem. Petitioner is fully
12 competent to understand and protect the rights of the minor, and has no interest adverse to that of the
13 minor.

14 7. Petitioner requests that she be appointed guardian ad litem for her son, as denoted
15 above, to prosecute the above-described causes of action on behalf of her son as denoted above, and
16 for such other relief as the Court may deem just and proper.

17 8. Minor Plaintiff M.H. has reached a settlement with Defendant COUNTY in this action
18 to resolve all of his claims and causes of action against all defendants. This settlement shall not
19 affect the claims and causes of action of co-plaintiffs JOSEPH HARRISON, KRYSTLE
20 HARRISON, MARTIN HARRISON, JR., and TIFFANY HARRISON, who are represented
21 separately by Haddad & Sherwin.

22 9. The terms of the settlement are as follows:

23 a. Minor Plaintiff M.H. shall receive settlement for \$1,000,000.00. Although it is
24 expected and anticipated that Defendant CORIZON shall contribute a portion of this settlement,
25 Defendant COUNTY has guaranteed that the settlement shall be in the total of \$1,000,000.00, and
26 any disputes between Defendant COUNTY and Defendant CORIZON shall not affect the total
27 settlement of \$1,000,000.00. In exchange, upon payment of the settlement, Minor Plaintiff M.H.
28 shall dismiss with prejudice all of his claims and causes of action against all defendants in this action.

a. Attorney fees for Minor Plaintiff M.H. shall be at 25% of his total recovery, for \$250,000, pursuant to the contingency fee agreement in this case. In addition, counsel for M.H. will recover their costs advanced in this case, in the total amount of \$4,274.73. Minor Plaintiff M.H.'s net settlement shall be for \$745,725.27.

b. Minor Plaintiff M.H.'s net settlement shall be placed in a structured settlement as filed confidentially under seal as confidential exhibit A to this petition. The settlement shall be disbursed according to the terms of the structured settlement proposal.

10. This petition was prepared by the Law Offices of John L. Burris, the lead counsel representing plaintiff in this action. Benjamin Nisenbaum, Esq. of the Law Offices of John L. Burris also represents plaintiff and is in agreement with the terms of this Petition. John L. Burris, Esq. and Benjamin Nisenbaum, Esq. hereby represent to the Court that they became involved in this case at the request of the plaintiff, and have not received, and do not expect to receive any compensation for their services in connection with this action from any person other than the parties whom they represent in this action.

11. Petitioner and his counsel have made a careful and diligent inquiry and investigation to ascertain the facts relating to the subject incidents, the responsibility therefore, and the nature and extent of injury to the minor plaintiff, and fully understand that if the compromise herein proposed is approved by the Court and is consummated, said minor plaintiff will be forever barred and prevented from seeking any further recovery of compensation as against all Defendants in this action, even if said minor's losses and injuries might in the future prove to be more serious than they are now thought to be.

12. Petitioners recommend this compromise settlement to the Court as being fair, reasonable, and in the best interests of said minor plaintiff.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: September 13, 2013

/s/Benjamin Nisenbaum

Benjamin Nisenbaum
Attorney for Plaintiff M.H.

ORDER

PURSUANT TO PLAINTIFFS' PETITION, the Court hereby grants Plaintiff's petition according to the terms of the terms of the petition herein.

Michelle Henshaw is hereby appointed Guardian Ad Litem to prosecute the claims of Minor Plaintiff M.H. in this action.

The Court approves the Petition to Compromise Minor Plaintiff M.H.'s claims, and orders as follows:

- a. Minor Plaintiff M.H. shall receive settlement for \$1, 00,000.00.
- b. Attorney fees for Minor Plaintiff M.H. shall be at 25% of his total recovery, in the amount of \$250,000.00, payable to his attorney, John L. Burris.
- c. Total litigation costs of \$4,274.73 incurred by his counsel in this action, shall be payable to his attorney, John L. Burris.
- d. Minor Plaintiff M.H.'s net settlement in the amount of \$745,725.27 shall fund the structured settlement filed confidentially under seal herein, and shall be disbursed according to the terms of the structured settlement proposal filed confidentially under seal herein. Defendants shall work with the broker of Plaintiff's choice to properly fund the structured settlement.

Upon receipt of the full amount of the settlement sum herein approved and the deposit of the funds, Petitioner is hereby authorized and directed to execute and deliver to payer and defendants, if Petitioner has not yet done so at that time, a full, complete, and final Release and discharge of and from any and all claims and demands of said minors by reason of the incident described in said Petition and the resulting injuries and damages to said minors.

Dated:

HON. JON S. TIGAR
UNITED STATES DISTRICT COURT JUDGE

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Defendants.

EXHIBIT A

Berkshire Hathaway Life Insurance Company of Nebraska

Quote for Structured Settlement Annuity

FILED UNDER SEAL